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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,815	02/12/2004	Chris W. Gorski	2081-00005	5709
7590 03/03/2006			EXAMINER	
William L. Falk ANDRUS, SCALES, STARKE & SAWALL, LLP Suite 1100 100 East Wisconsin Avenue Milwaukee, WI 53202-4178			TYLER, STEPHANIE E	
			ART UNIT	PAPER NUMBER
			3754	
DATE MAILED: 03/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/777,815	GORSKI ET AL.	
	Examiner	Art Unit	
	Stephanie E. Tyler	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/12/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 12-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Donahue (3,756,473).

Donahue (3,756,473) discloses in figures 1,3- 5 a dispenser assembly (12) for producing reconstituted consumable liquids by combining and mixing a diluent and a liquid concentrate (col. 2, lines 53-55) supplied through a delivery conduit from a concentrate vessel (14,16) provided on a food and beverage dispenser, the dispensing assembly having an inner member movable within an outer member provided with a concentrate inlet between a closed position (figure 4) in which the concentrate inlet is sealed; and an open position (figure 5) in which the concentrate inlet communicates with the interior of the dispensing assembly to deliver a reconstituted mixture of diluent and liquid concentrate in a flow path to a mixture outlet (26), a vent (310) arrangement formed in the inner member for communicating the interior of the dispensing assembly with the atmosphere outside the dispensing assembly, and enabling the draining of a maximum amount of the reconstituted mixture through the mixture outlet (col. 9, lines 18-37).

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Regarding claim 13 note, in figures 3-5 a guiding arrangement between the inner member and the outer member for enabling sliding movement of the inner member relative to the outer member along a predetermined linear horizontal path.

Regarding claim 14 note, in figure 4 a rib arrangement provided in the inner member for improving mixing of the combined diluent and liquid concentrate, and preventing dispersion of the reconstituted mixture from the mixture outlet (col.5, lines 22-41)

Regarding claim 15 note, in figure 3 wherein the dispenser is provided with a bracket (332 and 334) structure for slidably receiving and retaining an end of the concentrate vessel.

Regarding claim 16 note, in figure 6 that the inner member is formed with a vertical passageway alignable with the concentrate inlet, the concentrate inlet being positioned and the vertical passageway being sized such that diluent flowing past the vertical passageway causes liquid concentrate to be suctioned from the concentrate vessel when the concentrate vessel is located beneath the dispensing assembly (col.5, lines 5-21).

Regarding claim 17 note, in figure 6 wherein the delivery conduit is provided with a pinch valve (36) for regulating the flow of liquid concentrate from the concentrate vessel to the dispensing assembly.

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Regarding claim 18 note, in figures 1,4,5 discloses the locating structure on the inner member and the outer member for internally and externally locating the dispensing assembly relative to a diluent nozzle mounted on the dispenser (col. 9, lines 18-37).

Regarding claim 19 note in figures 1,3-5 wherein the inner member is sealingly engaged with the diluent nozzle when the dispensing assembly is in the open position (col. 9 lines 22-37).

Regarding claim 20 note in figures 1, 3-5 wherein the inner member is formed with a deflector adjacent the vent opening for diverting mixture flow therefrom (col. 1, lines 40-43).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Donahue (3,756,473) in view of Bauerlein (2,823,833).

The Donahue (3,756,473) reference discloses the dispensing assembly and its use and structure. However the Donahue (3,756,473) reference lacks the disclosure of the concentrate being pure and preservative-free; also the mixture being substantially contaminant free.

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The Bauerlein (2,823,833) reference teaches a dispenser for proportioning fluids and concentrates, which "comply to the strictest health standards and a dispenser that is contaminant free" (col. 1, lines 27-28, 30-34).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the Donahue's (3,756,473) dispensing assembly with health and cleanliness standards as taught by Bauerlein (2,823,833) in order to provide consumers with a clean and healthy beverage.

Allowable Subject Matter

5. Claims 1-11 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie E. Tyler whose telephone number is 571-272-8059. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 517-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SET


MICHAEL MAR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700